

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GARY GRAHAM,

Defendant.

4:22-CR-3073

ORDER

The defendant, sentenced last Thursday pursuant to a guilty plea, has filed a motion for judgment of acquittal. [Filing 213](#). That motion will be denied.

A motion for judgment of acquittal may only be filed within 14 days after a guilty verdict or after the Court discharges the jury, whichever is later. [Fed. R. Crim. P. 29\(c\)\(1\)](#).¹ Here, there was no jury, and the defendant was adjudged guilty on January 25. [Filing 184](#). Accordingly, the Court has no authority to grant his motion. *Carlisle v. United States*, 517 U.S. 416, 433 (1996).

Nor, for that matter, is there any basis for the defendant's motion. A post-verdict motion for judgment of acquittal puts in issue the sufficiency of the evidence to sustain the verdict. *United States v. Ford*, 726 F.3d 1028, 1033 (8th Cir. 2013). But in this case, the verdict of guilty is sustained by the defendant's plea of guilty. See [filing 177](#); [filing 178](#); [filing 182](#).

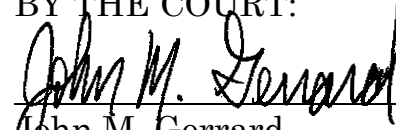
The defendant's complaints about the prosecution of this case, and his retained counsel, are familiar. See [filing 189](#). If he wants to pursue them, he should pursue them with the Court of Appeals.

¹ To the extent that the defendant's motion could be construed as a motion for new trial, that, too—because the defendant relies on purported evidence that was already known—must also be filed within 14 days of the verdict or finding of guilty. [Fed. R. Crim. P. 33\(b\)](#).

IT IS ORDERED that the defendant's motion for judgment of acquittal ([filing 213](#)) is denied.

Dated this 23rd day of April, 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read "John M. Gerrard", is written over a horizontal line.

John M. Gerrard
Senior United States District Judge